

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

SEP 11 1998

IN THE MATTER OF:

DOCKET NUMBER: 97-02337 (Case 4)

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

1. The duty title of "Command Manager" and associated job description, with the effective date of 19 May 1986, be corrected in the Personnel Data System (PDS).
2. The revised Promotion Recommendation Form (PRF) for the CY96C Central Lieutenant Colonel Selection Board (P0596C), with a "Definitely Promote" recommendation, be accepted for file.
3. His corrected record be considered by a Special Selection Board (SSB) for promotion to the grade of lieutenant colonel by the CY96C Lieutenant Colonel Selection Board, which convened on 8 July 1996.

APPLICANT CONTENDS THAT:

During the May 87 and May 88 time frame, he was appointed Command Manager and his records should be corrected to reflect this duty title.

He had several minor changes approved and added to his record via the appeals process. As a result, his CY94 PRF was upgraded to a Definitely Promote (DP) and he believes his CY96 PRF should be upgraded based upon the same information that upgraded the CY94 PRF.

In support of his request, applicant submits copies of the AFI 36-2402 decision, which contains statements from his former superiors, AF Form 2096, the revised P0596C PRF, statements from the senior rater and MLRB president, the P0594A PRF and additional documents associated with the issues cited in his contentions (Exhibit A).

STATEMENT OF FACTS:

Information extracted from the Personnel Data System (PDS) reveals the applicant's Total Active Federal Commissioned Service Date (TAFCS D) as 30 May 1979. He is currently serving on active

duty in the grade of major, with an effective date and date of rank of 1 July 1990.

The applicant provided a copy of AF Form 2096, dated 8 May 1986, which reflects the duty title change of Command Manager, effective 19 May 1986. Applicant also provided a copy of an earlier extract from the Personnel Data System (PDS), which reflects the duty title of Command Manager, effective 18 May 1986. A review of applicant's current duty history in the PDS does not reflect the aforementioned entry. The Officer Effectiveness Report, OER), rendered for the period 18 May 1986 through 17 May 1987, contains the duty title of "Advanced Space System Acquisition Manager."

Applicant's OPR profile, commencing with the report closing, 17 May 1991 follows:

<u>Period Ending</u>	<u>Evaluation</u>
17 May 91	Meets Standards (MS)
26 Jan 92	MS
26 Dec 92	MS
# 2 Dec 93	MS
2 Dec 94	MS
## 2 Dec 95	MS
2 Dec 96	MS

Top report at the time he was considered and nonselected for promotion to lieutenant colonel by the CY94A Central Lieutenant Colonel Board, which convened on 11 October 1994.

Top report at the time he was considered and nonselected for promotion to lieutenant colonel by the CY96C Central Lieutenant Colonel Board, which convened on 8 July 1996.

Information maintained in the Personnel Data System (PDS) reveals that the applicant currently has an established date of separation of 31 May 1999.

AIR FORCE EVALUATION:

The Air Force Evaluations Board Recorder, HQ AFPC/DPPPEB, provided a technical review of applicant's case concerning the PRF issue. DPPPEB stated that the applicant had a PRF for the CY94 Lieutenant Colonel Board upgraded to a "DP" based upon the addition of new information to his record (OPR content change, duty title change and Air Force Commendation Medal updated). His original senior rater and the present Management Level Evaluation Board (MLEB) president supported the content change; however, applicant was nonselected by the CY97 SSB.

DPPPEB stated that the applicant now requests his CY96 PRF be upgraded based upon this same new information that allowed his

CY94 PRF to be upgraded. The original senior rater supports the request; however, the present MLEB president, AFMC/CV does not support the requested upgrade. AFI 36-2401 stipulates that changes to the overall rating on a PRF require both the senior rater and the MLEB president.

DPPPEB stated that overall, the content of the PRF contains all valid statements; however, since the present MLEB president does not support the applicant's request to upgrade the overall promotion recommendation, DPPPEB recommended that the present PRF, with a "Promote" recommendation stand. DPPPEB indicated that the overall comments in Section IV, Promotion Recommendation, support an overall recommendation of "Promote" (Exhibit C).

The Directorate of Assignments, HQ AFPC/DPAIS1, responded to the duty title issue. DPAIS1 stated that the applicant submitted an AF Form 2096, which awarded him the requested duty title, to substantiate this correction. Although the AF Form 2096 is considered a valid source document, AFMAN 36-262 states, "If the OER/OPR does not agree with the requested change, a request must be submitted to correct the OER/OPR." DPAIS1 does not concur with allowing changes that conflict with source documents on file. DPAIS1 recommended the applicant's request be disapproved until the Board reaches a decision on whether or not to allow the May 87 and May 88 OPRs to be corrected (Exhibit D).

The Chief, Appeals and SSB Branch, HQ AFPC/DPPPA, stated that the applicant has had several appeal actions over the last four years (copies provided). DPPPA indicated that the contested duty history entry has been a matter of record for 11 years. The applicant attempted to appeal his 17 May 1987 and 17 May 1988 Officer Effectiveness Reports (OERs) to have the duty title and job description changed. The Evaluation Report Appeal Board (ERAB) considered the applicant's appeal for merit; however, the ERAB time-barred the appeal. DPPPA concurs with the assessment of HQ AFPC/DPPPEB concerning the PRF issue. DPPPA stated that the senior rater supports the applicant's request. However, the Management Level Review Board (MLRB) president does not support the applicant's request for a "DP" recommendation, but is willing to support a reworded PRF. DPPPA indicated that while it may be argued that the contested PRF was a factor in the applicant's nonselection, there is no clear evidence that it negatively impacted his promotion opportunity. Based on the assessments provided by HQ AFPC/DPAIS1 and HQ AFPC/DPPPEB and on the evidence provided, DPPPA recommended the duty title issue be time-barred and the PRF issue be denied. If the Board considers the duty title issue, DPPPEB recommended denial (Exhibit E).

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the advisory opinions and indicated that even minor changes can make the difference between a Definitely

Promote "DP" and a Promote "P." Both the senior rater and the MLEB president determined that changes made to his records were sufficient to award him a "DP" recommendation for the CY94 Lieutenant Colonel SSB. The same senior rater determined a second time that the same changes, with two years of additional exemplary work, was sufficient to change his PRF from "P" to "DP" for the CY96 SSB. He does not know why the MLEB president disagreed with the same PRF recommendation for the CY96 SSB. He believes that if anything, his record was strengthened, not weakened, by two more years of outstanding OPRs. He stated that an individual being considered for above-the-zone promotion will not get promoted without a "DP" on the PRF. He considers DPPPA's insinuation that he is attempting to recreate history to be insulting. He corrected errors which were accepted by two general officers. The senior rater provided a justification letter detailing why he changed the CY94 "P" recommendation to a "DP" and essentially used the same justification for the CY96 "DP" recommendation.

As to the duty entry, when his OPR closed out in May 1988, he was reassigned to a geographically-separated unit (the Military Personnel Flight was not co-located with the duty assignment). He was unable to review his duty records from May 1988 to July 1991 (end of his geographically-separated unit assignment). It was then that he discovered the error and started the correction process through the ERAB. His Military Personnel Flight (MPF), in accordance with Air Force regulations (reference MIBR application), corrected his duty history based on the AF Form 2096 source document. DPPPA directed the MPF to change his duty title back, in contravention to Air Force regulation. He stated that the Air Force has a responsibility to maintain an accurate service history.

A complete copy of this response is appended at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application concerning the PRF issue was timely filed. The application concerning the duty title issue was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. We took notice of the applicant's complete submission in judging the merits of the case; however, we agree with the opinions and recommendations of the respective Air Force offices and adopt their rationale as the basis for our conclusion that the applicant has not been the victim of an error or injustice. Therefore, absent sufficient evidence to the contrary, we find no

compelling basis to recommend granting the relief sought in this application.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:


The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 9 July 1998, under the provisions of AFI 36-2603 :

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Jackson A. Hauslein, Member
Mr. Michael P. Higgins, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 31 Jul 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPAIS1, dated 29 Aug 97.
- Exhibit D. Letter, HQ AFPC/DPPPEB, dated 27 Aug 97.
- Exhibit E. Letter, HQ AFPC/DPPPA, dated 24 Sep 97.
- Exhibit F. Letter, SAF/MIBR, dated 13 Oct 97.
- Exhibit G. Letter from applicant, dated 13 Nov 97.


THOMAS S. MARKIEWICZ
Panel Chair